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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,809	02/28/2002	James Austin Kendrick	98B014E	3259

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EXAMINER	
NECKEL, ALEXA DOROSHENK	
ART UNIT	**PAPER NUMBER**
1764	

DATE MAILED: 01/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/085,809	Applicant(s) KENDRICK ET AL.	
	Examiner Alexa D. Neckel	Art Unit 1764	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 January 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
   a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
   (b) ☐ They raise the issue of new matter (see NOTE below);
   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: _____.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.

Alexa Neckel

ALEXA DOROSHENK NECKEL
PRIMARY EXAMINER

Alexa D. Neckel
Primary Examiner
Art Unit: 1764

Continuation of 11. The request for reconsideration has been considered but does NOT place the application in condition for allowance because: the arguments are not persuasive.

Applicant again argues that if one were to convert the apparatus of McElvain into the device of Palmroos then redundant conduits and loops would result.

As stated in the Final Rejection, it is well within the skill of one of ordinary skill in the art to be able to connect and disconnect the various elements of a known loop reactor (such as the reactor of McElvain) to form another known loop reactor (such as the reactor of Palmroos). The fact that by converting the McElvain reactor to the Palmroos reactor may result in extra/redundant pieces remaining from the original reactor does not preclude one of ordinary skill in the art from converting the reactor in such a manner. It is also noted that the instant claims use the transitional term "comprising", which is inclusive or open-ended and does not exclude additional, unrecited elements or method steps.

Applicant argues that the references themselves do not disclose the steps of disconnecting and reconnecting conversion runs.

The examiner continues to maintain her position that it is well within the skill of one of ordinary skill in the art to be able to connect and disconnect the various elements of a known loop reactor (such as the reactor of McElvain) to form another known loop reactor (such as the reactor of Palmroos).

Obviousness may sometimes be based on the common knowledge of persons skilled in the art without relying on a specific suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 1390, 163 USPQ 545, 549 (CCPA 1969).

One skilled in the art to which the invention pertains could take the description of the invention in the printed publications of McElvain and Palmroos and combine it with his own knowledge of the particular art (the ability to disconnect and disconnect the structural elements of a reactor) and from this combination be put in possession of the invention on which a patent is sought. A reference contains an enabling disclosure if the public was in possession of the claimed invention before the date of invention. Such possession is effected if one of ordinary skill in the art could have combined the reference's description of the invention with his own knowledge to make the claimed invention. In re Donohue, 766 F.2d 351, 226 USPQ 619 (Fed. Cir. 1985).

Applicant appears to be questioning the ability of one skilled in the art to know how to disconnect and reconnect the various elements of a known loop reactor. If this is the case, it is noted that applicant's specification does not provide the type of detail that would instruct one on how to specifically go about disconnecting and reconnecting various elements. Such argument amounts to arguing that the references require a type of detail not provided for in applicant's own specification. In re Epstein 31 USPQ2d at 1823 ("Rather, the Board's observation that appellant did not provide the type of detail in his specification that he now argues is necessary in prior art references supports the Board's finding that one skilled in the art would have known how to implement the features of the references and would have concluded that the reference disclosures would have been enabling.").

Applicant argues that the examiner has not provided sufficient motivation to combine the references.

As previously discussed, one in possession of the reactor of McElvain would be motivated to convert their reactor into the reactor of Palmroos in order have a reactor which would allow the possessor to gain further control of various reaction stages and optimize the reaction stages, which are advantages taught by Palmroos.